

MINUTES OF THE MEETING OF  
THE BOARD OF COSMETOLOGY EXAMINERS  
May 2, 2005

Note: These minutes have not been approved. They are for information only.

**ROLL CALL**

The meeting of the Board of Cosmetology Examiners was called to order by the Chairperson, Stacey Tessendorf, at 9:35 a.m., Conference Room 6Z, Nebraska State Office Building, Lincoln, Nebraska. Copies of the agenda were mailed to the Board members and other interested parties in accordance with the Public Meeting Law. The following members answered roll call:

Bruce Nims	- Member
Don Osentowski	- Public Member
Jeff Pippitt	- Member
Judy Roubal	- Member
Pam Rowland	- Secretary
Stacey Tessendorf	- Chairperson
Marlene Wagoner	- Member
Amy Waskel	- Member

The following members were not present: Larrene Myles, Sherri Scheele, and Judy Wilson.

A quorum was present and the meeting convened. Also present were: Kris Chiles, Section Administrator; Carol Ann Gray, Credentialing Coordinator; and Susan Chocholousek, Credentialing Specialist, Credentialing Division.

**ADOPTION OF AGENDA**

Judy Roubal moved, seconded by Jeff Pippitt to adopt the agenda as printed. A voice vote was taken. Voting aye: all. Voting nay: none. Motion carried.

**INTRODUCTION OF NEW BOARD MEMBERS**

Ms. Gray introduced Bruce Nims our new/old board member. He was a former board member and is now taking Jerry Hendrickson place as a school owner on the board. He has been spending time with the barber schools, he has more of a respect for cosmetology. There is a bill in the legislature to change the way barber instructors are done. They currently require 18 hours of college. The courses are next to impossible to find let alone take. We did some work and found that in 1931 there was a Supreme Court Case where cosmetology and barbering were announced by the Supreme Court to be the same. Consequently, you can't have different rules for one profession than you do for the other because they are considered in the same class. We have a gentleman in Omaha who used to run the legislature. Mr. Nims doesn't know how that is going to go. We are going to propose entering into study committees this summer to take barbering into cosmetology. The basis is to have two boards that do the same thing. One of the classes you have to take is three hours on special needs. Now, I don't know how many special needs students he has ever dealt with in cosmetology. They wouldn't have the dexterity. The law was written many years ago to prevent competition. There are only 18 barber instructors in Nebraska. There may be a few more now. Mr. Nims doesn't know if it will come to a vote this year or not. Mr. Tessendorf asked Mr. Nims if he was a barber instructor. No. Mr. Nims said that he was not a barber either. How many barbers would there be in the state? Probably around 800. How many of them are working? Probably a lot of them. Barbers tend to stay in the profession a lot longer than hairdressers do. There are two barbering schools. We had a barbering school in Kearney, NE that closed. Most other states have gone that way. Colorado went that way 20 years ago. The only difference that Mr. Nims can see between barber instructor exams and cosmetology instructor exams are that they use the same instructor exam that we use. Shaving is a lost art. Introductions were made.

**APPROVAL OF MINUTES** - Pam Rowland moved, seconded by Judy Roubal to postpone until later in the meeting the minutes from the February 7<sup>th</sup> board meeting. Voting aye: all. Voting nay: none. Motion carried.

9:40 a.m. Bradley Shaff, Assistant Attorney General entered the meeting.

**STATISTICAL REPORT**

## **A. Examinations**

Ms. Gray gave a verbal report the following:

**Cosmetology, Esthetician, and Nail Technology examination** statistical reports for the first quarter January 1-March 31. Nail Technology Pencil/Paper examination we had registered 27, examined 26, 13 passed, and 13 failed. There was one person that did not appear for the exam. The computer based test, 14 were examined, 11 passed, and 3 failed. The grand total that we had for nail technology 40 were examined, 24 passed, and 16 failed.

For cosmetology, taking the Pencil/Paper test we registered 35, examined 33, passed 31, failed 2, and 2 people did not appear for the examination. Computer based, we examined 124, passed 109, failed 15. For a grand total in cosmetology 157 were examined, 140 passed, 17 failed.

Esthetics, unless there is something wrong with Carol Ann's report, she shows 26 were examined by the computer based test, 23 passed, and 3 failed.

Esthetics Instructor – examined one and passed one.

**Electrology** – Registered: 1, Examined: 1, Licensed: 1. Ms. Gray indicated electrology applicants are required to take both the theory and hands-on practical portions of the examination. It has been at least 3 years since the last electrology examination was given.

Ms. Gray reminded the board that with the computer based examination we do have people that are authorized to take the test and then do not take the exam within the two-month timeframe.

Was North Platte ever designated or considered for a test site? No, not yet. Not to Carol Ann's knowledge.

There are times that graduated try to register for a test site at Kearney and they tell them there isn't one. Through communication, we get them taken care of.

Was North Platte on our original list of test sites? No. We only had four sites promised us in the beginning.

9:50 a.m. Assistant Attorney General, Bradley Shaff departed the meeting.

## **B. Renewals**

Carol Ann reported that renewal revocation notices would be going out very soon. The revocation process has changed. If an individual applies for reinstatement, they have to wait thirty days and technically they have to wait for the board meeting to be reviewed. Kris will be discussing this issue with you later in the meeting. There may be a way to do them a little bit quicker than having the people have to wait for three months before they can get reinstated.

## **C. Body Art Licensing**

On the body art, we were very, very active with these applications. Carol Ann has been doing almost nothing else besides body art trying to get them all licensed. We do still have some pending applications. Of all of the different types, we have actually licensed 116. We have 107 pending. This includes all the types of facilities and the body artists as well. That is a grand total of 226 applications that we have been working with. Body art facilities, we have licensed 25. We have 30 facility applications pending. Body branders, we licensed 2. We have 2 pending applications. Body piercers have 25 licensed. There are 24 pending applications. Permanent color (also known as permanent makeup or permanent cosmetics) 8 licensed and 6 pending. Tattoo artists is the largest of the body artist group. We have 54 licensed and 45 pending. This doesn't mean there are that many people, there are that many licenses. There are some individuals that have two types of licenses or three (body brander, body piercer and tattoo artist).

Why are so many of those pending? If you'll notice on our agenda, we have three hours set aside today for closed session for investigative purposes. Some of those individuals are part of that group. Some are trying to get their high

school diploma or other pending requirements. If you have an individual with three different applications and they are all pending, it may just be one person. Any other questions or comments?

If you are interested, Kris has a list of those that have actually become licensed.

**NATIONAL-INTERSTATE COUNCIL OF STATE BOARDS OF COSMETOLOGY (NIC)** – Judy Roubal began by thanking the board of cosmetology for allowing her to go. She said it was a very interesting meeting and that Portland, Oregon was a very beautiful city. One of the topics discussed was laser. The larger the spot size, the deeper it goes. There is a lot of abuse of laser going on in chiropractor and ophthalmologists offices are a couple of professions that have gotten a hold of these machines and are misusing them. CO2 should be used only by physicians. It is a new machine that they demonstrated there. It is right wave therapy. It builds collagen by stimulating collagen and is a non-invasive class 1 device. There are different classifications. The class 4 is a medical device.

They discussed sunless tanning. It comes in spray form. They showed a mask that they wore. It was black from the spray tanning. The tanning filters were also black. It is a risk to the public using the sunless tanning as well as those doing the spraying. It should be regulated because it is a sanitation issue. People are barefoot and in booths during the procedure. It is sugar-based. What happens is that your pores absorb it. It is a breeding ground for bacteria. There is a shelf life due to the sugar product. California is now trying to regulate age limits for tanning beds.

9:55 a.m. Assistant Attorney General Bradley Shaff returned to the meeting.

There was a discussion on non-English speaking and foreign students and licensure and the documentation that they have to present. A lot of states have one particular agency that interprets the foreign documents for them. Washington and Oregon announced that they will be introducing palm pilots with printers to inspect salons. It cuts their time in half and saves on phone calls back to the office. In Wyoming, they have started licensing booth people. Washington has started an apprenticeship program. They are currently starting to get their law changed, right now estheticians can only go no lower than the seventh vertebra. They talked about state websites. NIC will try to set guidelines so that all the states will have the same thing on their websites – like reciprocity and consumer information. Term limits were discussed. All the states but Nebraska are appointed by the Governor to the board. Oklahoma now has a braiding law. They are required to have 600 hours of training and they must work under a cosmetologist in a licensed salon. They can't do any shampooing. The reason they went with a total of 600 hours was so they could get financial aid. It is called a natural hair license. NIC doesn't have a test for it. Idaho is considering a hair cutting only license. Tattooing, only Nebraska and Virginia have a license for this profession. Many have refused, stating it is an invasive procedure and should go under a physician license. In California, salesmen are regulated to be knowledgeable to sell foot spas. They would have to be able to teach a class. All across the nation, they are having problems with foot spas. Milady has an on-line newsletter. There are also brochures explaining how to clean foot spas. These should be left at salons during inspections. NIC is considering giving a newsletter award at the national convention. Brochures concerning consumer protection could be given out at women's groups. Milady's is working on distant learning. The federal government is passing legislation to cover distant learning. Universities have it now. Judy Roubal passed around hand-outs on regulations on laser procedures.

Amy Waskel reported that the meeting was quite informative. The foot spa sanitation was a major concern. The disinfectant being used does not get into the pipes. Our regulations may need something added to them. All we require is to have foot baths sprayed. Amy gave an example of the spa she went to on Friday night had toe nails floating in it and residue water. She thought that they hadn't cleaned it. The spa employee proceeded to put a client into the foot bath. In the meeting, they talked about the bacteria and out breaks that have happened in California from unsanitary foot baths. They have experienced this in other states as well. This is something we should look into. Amy has checked into disinfecting foot spas through websites and different companies. What they recommend is anything from dish washing soap to disinfectant, to clorax. Basically what you need to do is drain it, run the solution through for approximately ten minutes, then run clean water through again. The filters should be cleaned weekly or nightly which ever is most appropriate for the amount of usage. They also did talk about MMA. MMA is something that is illegal by the FDA. Others say MMA is not illegal. She even looked on the FDA website. There is no true yes or no answer concerning MMA. Amy had talked with Kris about how to try to regulate it. It is so hard to regulate. Amy brought in some samples so that the board could smell what MMA smells like.

The NIC Annual Conference is August 27-29, 2005 in Washington, D.C. Do you know approximately when this will be approved? NIC recommended that when we are in Washington, D.C. that we should contact our senators. We shouldn't wait until after our August board meeting. This process could take a couple of weeks.

Pam Rowland made a motion to budget to allow those board members that wish to attend the NIC Annual Conference be allowed to attend. Judy Roubal seconded the motion.

Kris asked for clarification on the motion.

Pam Rowland amended her motion to include anyone that wants to attend the NIC Annual Conference be allowed to attend. Judy Roubal seconded the motion. A roll call vote was taken. Voting aye: Nims, Osentowski, Pippitt, Roubal, Rowland, Wagoner, Waskel, and Tessendorf.

Board members interested in attending are: Judy Roubal, Amy Waskel, Pam Rowland, Don Osentowski, Jeff Pippitt, and Marlene Wagoner. Carol Ann will contact Judy Wilson and Sherri Scheele to see if either of them are interested in attending.

As soon as that approval comes through, Judy Roubal volunteered to write a letter on behalf of the board to all the senators that we have in Washington, D.C. We can let them know we are coming and would like to work out a time to meet with them.

We are running ahead of time. We have about five minutes to read over the minutes before we go into closed session. At 10:10 the tape recorder was turned off while the board read the minutes.

10:12 a.m. Mike Grutsch and Loretta Bennett, from the Investigation Department, entered the meeting.

10:20 a.m. the tape recorder was turned back on.

The board decided to go page-by page over the minutes. Judy Roubal made a motion to approve the minutes as written. Bruce Nims seconded the motion. A voice vote was taken. Voting aye: all. Voting nay: none. Motion carried.

#### **INVESTIGATIONAL INFORMATION/REPORTS – CLOSED SESSION**

Judy Roubal moved, seconded by Pam Rowland to enter Closed Session for the purpose of hearing discussion of investigative reports and for the prevention of needless injury to the reputation of the individuals. A voice vote was taken. Voting aye: all. Voting nay: none (0). Motion carried.

The board meeting entered closed session at 10:22 a.m.

10:41 a.m. Bruce Nims left the room due to a conflict of interest.

10:45 a.m. Kris Chiles departed the meeting to notify Mr. Nims that he could return to the meeting.

10:45 a.m. Bruce Nims and Kris Chiles returned to the meeting.

Judy Roubal moved, seconded by Pam Rowland to return to Open Session. A voice vote was taken. Voting aye: all. Voting nay: none (0). Motion carried.

The meeting returned to open session at 12:00 p.m.

12:02 p.m. Assistant Attorney General Bradley Shaff departed the meeting along with Lorretta Bennett and Mike Grutsch from the Investigation Department.

12:02 p.m. the board took a break.

12:25 p.m. the meeting reconvened.

### **DISCIPLINARY ACTION TAKEN**

Ronnell Bonner voluntarily surrendered his license on February 2005 for violating probation. Daniel Boruch action is pending to revoke probation for a probationary violation. That is currently in the works. In regards to setting up a hearing, the hearing is scheduled for May 26<sup>th</sup> at 9:00 a.m. He violated the probation in which he did not attend the AA meetings. He failed the testing of use of drugs. The next one is Allison Bottiger. Allison had a suspension on her license that went into effect March of 2005 through July of 2005. That was based on an order of a breach settlement. The order reads that she acknowledges that she read the petition to revoke probation in which again she violated her probationary order. Victoria Meier was placed on 5 years of probation starting April 8, 2005 through April 8, 2010. It was related to a number of alcohol related convictions. Ashley Obal is the last one. She was issued a censure on February 2005 based on a breached settlement. The agreed settlement was a petition to revoke her probation for violating her probationary convictions. The final agreement was that she would be censured rather than revoked. Kris will send the board copies of the actual documents. Just for the minutes we are including the actions that were taken. The board can read through the documents at their convenience.

Also related to other actions that were taken since our last meeting, we are processing administrative penalties. If you recall, an administrative penalty is charged to someone who practices after their license has expired. Come December 31, 2004, anyone who practiced after that date could be charged \$10.00 per day for each day they practice up to \$1,000. To let you know how this works, as of yesterday, we have collected \$9,320.00 in penalties. The money that we collect goes to the school funds so there isn't any that goes to the cosmetology funds. Fines ranged anywhere from \$20.00 to \$300.00 for practice with an expired license. Then we have some outstanding administrative penalties due in the amount of \$6,450.00. Does that just go to the Lincoln school district? It goes to the state school fund. When we send out a letter, they are notified that it must be paid to our office within thirty days. If after the thirty days it has not been submitted, we have legal recourse to collect it. Kris has waited a little longer just because it is something brand new and with as many as she has had she wasn't able to get through them as quick as she wanted to. They have all been turned over to our legal department. They will send out letters for collection to them. Also, we will be sending a letter to each one of these to inform them that it has been sent over to our legal counsel and collection. These range from \$20.00 to \$310.00. A couple of them have contacted us to ask if they can make payments. We are looking at how much time we should actually give someone to pay the fine. Kris will send the list around for the board to see. Are there any questions? Have you heard anything from folks out in the community about the penalty fees we are charging? We had some confusion on the renewals regarding the number of days. On the first notice it said if you do not renew it by a certain day you will be charged \$10.00 per day for each day you practiced. On the second notice, that actually went out after the first notice, it said tell us whether or not you have practiced after December 31<sup>st</sup>. Secondly, if you did practice, how many days did you practice? We had people sending this in listing a total of 30 days – which would be the entire month. Maybe some people actually could have practiced Monday through Sunday. So, we sent out a letter to them saying they owed us \$300.00. They were on the phone calling us saying they didn't read it correctly. I didn't work on weekends, I didn't do this, etc. I just thought I would put down 30 days. We did make some allowances. We had them send in a form saying that they had erred and didn't read the form and that they only practiced \_\_ number of days. We also had employers send us a copy of their work schedule to verify what days were worked. The fee was adjusted that they owed. I bet they were irate when they called, weren't they? That isn't even the word! Yes, they were very irate. We kindly pointed out it said it on the first renewal and also said it on the back side of the renewal where they would have signed and dated the application. That has been an interesting topic.

In the past, folks were able to practice after the expiration date for that month simply by paying the late fee. They found out this year it is not the case. If they continue to practice, they owe the penalty fee, a late fee, and the renewal fee. It did get their attention. It definitely did get their attention. Many of them will not do that again. If they would pay their \$32.00 on time, now it is costing them \$300.00.

Judy Roubal renewed her cosmetology license on-line and found it to be an easy procedure. Did anyone else try to renew their license on-line?

At 12:35 p.m., Bruce Nims departed the meeting.

### **LEGISLATIVE UPDATE**

#### **A. Uniform Licensing Law Re-write**

Ms. Chiles said that board members received a packet towards the end of the year in regards to the Uniform Licensing Law Re-write. Obviously, that bill was not introduced in that session. Our department made you aware of that. Over the next several months, we will be looking at revisions to that draft that was sent to each of you. As a reminder, the Uniform Licensing Law is the umbrella law that covers all professions. There will be standard procedures in there (the renewal procedure, the reinstatement procedure, board member information). Those are the things that are standard from profession to profession. In your own practice act, you will find the things that are specific to your profession. It will not repeat everything in the Uniform License Law. Currently, we have two books of standards. We have taken a stab at rewriting the Uniform Law based on some studies that were done over the last several years with the committee called NCR2000. They have made several recommendations. One of them is to rewrite the disciplinary process – to simplify some of the other processes and make sure all of the professions are really uniform. We will be holding a number of forums over the next several months so that the board has an opportunity to comment on these changes. If you look at the documents, the underlining is new language and the crossed out information is old language. Some of the cross-hatching is moving one section to another section. Be careful when you look through that. Do not assume it is new language it may be simply moving it from one section to another section. As a board, your opportunity will be on June 10, 2005 to attend the All Board Members Meeting. The whole theme of that meeting is what is the board's responsibility. Where should your advisory come into play? Where should your decision making come into play? That would be your sole decision making or a combination of both. They will be asking you a lot of questions. We are hoping that at least two representatives from each board will be there at the June 10 meeting. It is a little different than what we have had in the past. Usually we have key note speakers come in. This is an important piece that we wanted all the boards to get together to hear what other boards are saying. It may help you understand or it may bring up questions to think about. That is your opportunity. If no one from this board is able to attend, the department will come to one of your board meetings and do a special session with you. They are hoping that a couple of representatives will attend the All Board Members Meeting.

At 12:37 p.m., Mr. Nims returned to the meeting.

The other forums during the summer will be for associations. You are also welcome to attend those. If you want to continue receiving notices on those, just let Kris know. Will they be in Lincoln or will they be throughout the state? Some will be throughout the state. One is scheduled for Lincoln, Omaha, North Platte, and Scottsbluff. The intent is to go to several spots across the state. If you would like to have a special meeting to talk about your issues, or if you would rather wait until after this first meeting, we can talk about what you would want to do. If you attend the All Board Member Meeting, there will be time for questions afterward. They will then respond to those issues. When Kris says "they" she is talking about "Helen Meek and Dave Montgomery" being a part of that group and a couple of other internal staffing that will respond to questions. This meeting will affect a lot of boards. Some boards have decisionary authority and others have advisory authority. There are other cases where a total advisory makes no decisions other than continued education. You need to think about how independent you want to be and then be liable for your decisions in regards to legal consultation. The registrations will be coming out the Thursday prior to the All Board Member Meeting, so they will probably be coming out next week. You will need to register so that we know you are coming. If you want to select one person to be your spokesperson, that is perfectly acceptable. We are not expecting every member of every board to come.

Judy Roubal, Marlene Wagoner, and Don Osentowski will attend the June All Board Member Meeting.

#### **B. Bills Introduced During the 2005 Session**

- LB 25, 26, and 27 were the body art proposals. The special event body art legislation on LB 27 has been postponed. This was the provision that would allow body artists to attend Comstock and other celebrations to provide body art for the time that the special event would be going on. Currently they can not do it at all. Hopefully they will be given special event privileges. Would they be inspected when they are at those events? Yes. There would be certain standards that they have to meet for sanitation.
- LB 25 started out as two representatives for the cosmetology board. There was an amendment. It is still pending. It hasn't gone anywhere and from what Kris has heard, they may be trying to attach it to another bill. She hasn't seen that happen. If they do that, she isn't sure if it will be one or two. At this point, it is still in the process. LB 25 has the best chance of going someplace. LB 26 and LB27 do not have much of a chance of passing.

- LB 603 – Temporary nonpermanent airbrush tattoos and airbrush tanning is still on general file.

At 12:07 p.m. a brief break was taken for lunch arrival

The meeting reconvened at 12:10.

## **REGULATIONS UPDATE**

### **a. Status**

**Chapter 36** – Includes all of the person regulations for Cosmetologists, Electrologists, Estheticians, and Nail Technologists (Effective) was passed on September 22, 2004. The regulations were mailed to licensees.

Lyal McCaig, Owner of Capitol School of Cosmetology and Esthetics and Capitol School of Nails, addressed the Board of Cosmetology regarding his concerns about the Cosmetology Instructor, Esthetics Instructor, and Nail Technology Instructor training requirements. There is a difference in hours for each of the five sections. The first area is Student Orientation. The second section is Preparation for a Program. The third section is Theory and Clinical. The fourth area is where they learn to evaluate student progress. The fifth section is office management and office records and salon management. Mr. McCaig is concerned that for the cosmetology instructor, the regulations say that 26% of the time is in orientation. For a nail technologist, they would only have 5% of their entire hours in that area. 5% vs. 26% just doesn't make a lot of sense to him. In the second area, trying to write lesson plans, cosmetology spends an equal amount 27%. The nail technologists spend only 17% in this area. In the clinical and theory section, which is usually very important, cosmetology student instructors spend 24% there. However, esthetics and nail technologists study 7%. In learning to evaluate, in other words, counseling, cosmetology spends 5% doing that. Nail technologists and esthetics spend 13% doing that. And then down into administration it is 15%. He believes number one and number two can be combined together.

He asked if he puts together a lesson plan to train an esthetic student instructor and cosmetology student instructor that calls for both of them to read 50 hours, even though one area indicates that area number one requires 5% and the other requires 22%; would he be well within his rights to set up the training in this manner? Mr. McCaig was advised that he can choose to do it differently as long as it is more restrictive not less restrictive.

Ms. Chiles asked if there were any other issues on Chapter 36. She indicated the board will begin a double-check of all regulations that have passed and at the next meeting review the others for possible changes.

Lyal and Judy McCaig departed the meeting at 12:45 p.m.

**Chapter 37** - Fees. The fee regulations became effective August 8, 2004. The reason the agenda says effective/proposed is because of the body art legislation. The regulations are now being amended to include the fees that apply to the body art profession.

**Chapter 35** - Cosmetology and Esthetics Sanitation Revisions. The regulations were approved by the Attorney General's Office on January 11, 2005 and are currently in the Governor's Office for final review and approval.

**Chapter 34** - Nail Technology Sanitation Revisions. The regulations were approved by the Attorney General's Office on January 11, 2005 and are currently in the Governor's Office awaiting final review and approval.

**Electrology Sanitation** – In response to a question, Ms. Chiles stated electrology businesses are not licensed therefore, there are no sanitation requirements.

**Chapter 44** – Practice of Body Art (Proposed) Regulations. Ms. Chiles indicated a public hearing was held January 20, 2005. Three board members attended the public hearing. The public hearing was well attended. Several individuals testified regarding the difficulty in obtain an 8 hour bloodborne pathogen/first aid class for those individuals applying after April 1, 2005.

**Chapters 45** – Body Art Facility (Proposed) Regulations. Hearing also held on January 20, 2005.

**Chapter 46** - Safety, Sanitation and Sterilization Relating to Body Art Facilities Regulations. Hearing also held on January 20, 2005.

In regard to obtaining 8 hours of bloodborne pathogen/first aid training, Pam Rowland indicated she spent 6 hours on the phone asking some of the body artists and OSHA education. There is an Omaha chapter and a Lincoln chapter. They do provide the blood borne pathogen class. You can even go on-line and it explains how they can take it right here. They also could provide a four-hour or eight-hour class. She talked to another person that would be willing to develop a program. All that we would need to give them is the background on what the program would need to consist of. When asked if it would only be available in Omaha and Lincoln Ms. Rowland indicated, yes. She stated four hours is normally how long the course is but they could make it into an eight hour program.

#### **APPLICATION REVIEW AND DETERMINATION**

- Reinstatement – Ms. Chiles indicated two applications are pending receipt of additional information and will then be forwarded to the Board for their recommendation: Toyce Randall and Ben Gunderson.
- Initial Licenses - none

#### **UNFINISHED BUSINESS**

**a. Reporting of Committees to review and adopt** (tabled from previous meeting):

- **Board/Department Rulings/Opinions (Position Statement)**
- **By-Laws**
- **Board Meeting Conflict of Interest Guidelines**
- **Conviction and Unlicensed Practice Review Guideline**

Judy Roubal moved, seconded by Stacey Tessendorf to adopt the By-Laws, Conflict of Interest Guidelines, and Conviction and Unlicensed Practice Review Guidelines. A roll call vote was taken. Voting aye: Roubal, Rowland, Scheele, Tessendorf, Waskel, Wilson, and Pippitt: seven (7). Voting nay: None (0). Motion carried.

**b. Review Newsletter and Consumer Brochure Samples**

**Newsletter** - Discussion was held regarding the frequency and content of a newsletter. The board was agreeable to an annual newsletter. Possible general topics for all boards to use which include: A standard article from Brad Shaff, Assistant Attorney General, regarding disciplinary practice to be called, The Legal Corner; an article regarding the Licensee Assistance Program (LAP). Articles that are specific to professions; what the board has been working on; reminders of renewals; summary of current board members and introducing new board members; generic pieces for the newsletter that Ms. Chiles will write. The following board members volunteered to help with the newsletter: Judy Roubal, Judy Wilson, Sherri Scheele, Amy Waskel or Pam Rowland. Stacey Tessendorf will help with the photography for the newsletter.

**Consumer Brochure** – Ms. Chiles asked if the same five people would like to help with the consumer brochure. Ms. Chiles explained that the other professions send it out to licensees. They have them available in their establishment. When the consumer brochures were sent out for massage therapy, there were sent five copies. Inspectors carry them with them when they do inspections. The massage therapists could call in if they wanted to have more consumer brochures on hand.

**c. Other** - none

#### **NEW BUSINESS**

**a. Look Back at 2004 & Task List Items for 2005** –Ms. Chiles indicated she has put together a list of things the board has accomplished. She stated the board needs to start thinking about what projects to work on for 2005.



Ms. Chiles commented regarding the list as follows:

- There is an ongoing need to hire and train Nail Technology Inspectors.
- Update the cosmetology school regulations and reconsider the curriculum
- Revise School Accreditation Standards for all the types of schools
- Revise Cosmetology Inspection Reports and Standards of inspections
- Develop Salon regulations – this may be considered for 2006
- Revise Nail Technology Inspection Reports
- Web pages are consistently being revised
- Remove the survey, the board decided in May that a survey didn't need to be done

A lot has been accomplished in the past year.

- At the August meeting in 2004, it was suggested to add to the task list the following potential statutory changes:
  - To allow instructors to teach in another kind of a school. With the way the law is written, a cosmetology instructor can not teach in a nail school. That is one example. We questioned whether we should try to change the law to allow instructors to teach in another school type.
  - Time for taking the initial examination was also discussed as a possible statutory change. This is where if a student does not take the examination within two years of graduation, then they have to take the course over again. A possible solution discussed was to add a refresher course of some sort, which might tie into a person who waited too long to take their first exam. It was suggested to put that on the task list.
- Revising the By-Laws and Conflict of Interest has been accomplished.
- Newsletter and consumer brochure, you have that underway.

Stacey Tessendorf departed the meeting at 1:20 p.m.

- Ms. Chiles indicated the last topic on the list was clock/hour conversion. Discussion followed. When board members attended the NIC meeting, it was said to take a 30:1 ratio across the board for the conversion. From what Mr. Pippitt has been able to find out for Nebraska, that is not true. Theory is 30:1 and that is what we do. In related theory and practicum it is 45:1. Before we start converting, or allowing them to convert, we need to check with the Department of Education to find out exactly. If it is 30:1, we are teaching a whole lot and not getting paid for it. It would make a difference in Mr. Pippitt's salary. He is also paid by the number of credit hours. We need to establish the fact that if they are going to make the transition it needs to be this for theory and this for the practicum. Don't we want a standard conversion rate? We would need to add it into our regulations and work on it. It is the Federal Government that is mandating this installation.

Ms. Chiles asked if there were any other concerns to add that are important to work on in 2005. No response.

Stacey Tessendorf returned to the meeting at 1:24 p.m.

**a. Continuing Competency Issues –**

Part of this is just looking at how we process the continuing education applications. Now the instructor category needs to have at least four hours mandatory on some sort of teaching methodology.

Discussion was held regarding programs with combined license categories; does it need to be more clearly identified on the agenda. A cosmetologist may receive credit for attending all categories, however, a nail technologist would not. Certificates of completion are received where all categories have been marked, but it does not separate the number of hours given for cosmetology vs. nail technology. Fees were also discussed, whether to charge a fee for each separate license category or one fee per program.

Another issue is if the program is approved by Nebraska, and then they go and give the same program in another state, that is fine but they should not change the program.

Discussion was held regarding the new requirement for instructors and if the board is required to supply such a program. Ms. Chiles indicated the board is not obligated to provide such programs and if no one provides such a program during the renewal cycle, then we can't enforce it.

Ms. Chiles indicated that we will make a new cover letter for the continued competency program application to explain that the fee is \$10.00 per category since she is hearing that as the boards wishes.

There is another kind of scenario where they have a class over a longer period of time because they want to teach other things besides continuing education. Maybe they have a three day class but it would be four hours one day and six hours another day. They submit a total of 13 hours of continued education hours being requested for approval. The expectation would be that they would clarify on the agenda as to what is being requested for approval.

- **Program Review** - Further discussion was held regarding the review process. The procedure of mailing the programs to the reviewer and then having them mailed back to the office seems to be working. Concern regarding applications submitted for review after the program has been held. As a program provider, Sherri Scheele said that she waits with sending in a program to know whether or not she has enough people signed up to attend. When she knows that the program is absolutely going to happen, then she sends all the paperwork in. She indicates on the brochures that it has been submitted to the state for continued competency credits.

Unfortunately, many of the applications that come in are not complete. We end up spending a lot of time back and forth. That delays approval also. If they would come in all completed, it would be a more efficient process. Susan sends out a sample agenda with each continued education application, and they still are not complete.

- **Distance Learning Programs** - Discussion was held regarding the difference between a distance learning program and taking a homestudy course on the computer. Homestudy courses are no longer part of the mandatory hours for renewal.

The consensus indicated the distance learning courses are interactive – there is a live instructor to interact with the students and the students can also interact with each other. Oftentimes the courses are conducted by means of a live satellite transmission. Some people may be in the same room as the presenter while others are at another site. They could ask questions back and forth. So if they wanted to submit a program, they would just identify it as an interactive distance learning program. They need to be interactive. When they have to indicate the method of monitoring, they will have to check the attendees in and out somehow.

A home study course may be in book form or on the computer.

Further discussion may be required on this subject.

A break was taken at 2:00 p.m.

The meeting reconvened at 2:22 p.m.

#### **b. Correspondence/Issues/Other**

- **Cosmetology** – Ms. Gray reported that Jerry Hendrickson sold the Bahner College of Hairstyling, Fremont, to La'James College. La'James is now a new cosmetology school. Personnel will remain the same at the school. The La'James Schools have locations internationally and in other states. (Some of the locations are: Ames, Iowa; Des Moines, Iowa; Iowa City, Iowa)
- **Electrology** – none
- **Esthetics** – none

- **Nail Technology** – Ms. Rowland said she has been checking into the nail file sanitation and has not gotten a response. She has been trying to get an answer for the board during the last two meetings and still has not gotten a response. Hopefully by the next board meeting in May 2005 she will have information to report from the company or manufacturer.

**c. Other** – Clarification was given that approved programs are no longer required to have one of the following three components: Safe use of various chemical compounds, Sanitation techniques, or Knowledge of allergic reactions to chemical applied to hair, skin, or nails.

### **APPROVAL OF MINUTES**

On page 2 of the minutes, Ms. Rowland was wondering if we would need to seek a legislative change before June 2005. To allow the possibility of changing the law so that persons with 2,100 or more hours of training could be allowed to take the Nebraska test for the approaching 2006 session. That should be added to our task list.

On page 11 of the minutes, Ms. Rowland questioned if the legal counsel had gotten back to Ms. Chiles regarding the discussion of when a salon is open or closed and the serving of alcohol for private parties. Ms. Chiles will send that out to the board members.

Judy Roubal moved, seconded by Stacey Tessendorf to approve the minutes of the November 1, 2004 meeting and January 20, 2005 conference call meeting. A voice vote was taken. Voting aye: all. Voting nay: none. Motion carried.

### **ELECTION OF OFFICERS/APPOINTMENTS**

#### **a. Election of Officers**

- **Chairperson** – Judy Wilson nominated Stacey Tessendorf. Pam Rowland seconded the nomination. Judy Wilson made a motion that the nominations close. Stacey Tessendorf was elected as Chairperson.
- **Vice-Chairperson** – Sherri Scheele nominated Pam Rowland. Judy Roubal seconded the nomination. There being no other nominations, Pam Rowland was elected as Vice-Chairperson.
- **Secretary** – Pam Rowland nominated Sherri Scheele for the position of Secretary. Judy Roubal seconded the nomination. Any other nominations for secretary? Hearing none. Judy Roubal made a motion to have nominations cease. Sherri Scheele was elected as Secretary.

#### **b. Appointment of Complaint Screeners & Consultant and Continuing Education Reviewers**

- Cosmetology – Judy Roubal with Stacey Tessendorf as the backup
- Electrology – Judy Wilson
- Esthetician – Sherri Scheele with Stacey Tessendorf as the backup
- Nail Technology – Pam Rowland with Amy Waskel as the backup

### **ADJOURNMENT**

Sherri Scheele moved, seconded by Judy Roubal to adjourn the meeting. A voice vote was taken. Voting aye: all. Voting nay: none. Motion carried.

The meeting adjourned at 2:50 p.m.

Respectfully submitted,

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Sherri Scheele, Secretary  
Board of Cosmetology Examiners

Recorded by Susan Chocholousek, Credentialing Specialist.

Minutes – continued  
Board of Cosmetology Examiners  
May 2, 2005

Summarized by Susan Chocholousek, Credentialing Specialist and Carol Ann Gray, Credentialing Coordinator.